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35526 7590 12/20/2006 DUKE. W. YEE YEE & ASSOCIATES, P.C. P.O. BOX 802333 DALLAS, TX 75380			EXAMINER SIMITOSKI, MICHAEL J	
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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 09/788,071  
Filing Date: February 16, 2001  
Appellant(s): BANTZ ET AL.

**MAILED**

**DEC 19 2006**

**Technology Center 2100**

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Francis Lammes  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed 9/8/2006 appealing from the Office action mailed 7/12/2006.

**(1) Real Party in Interest**

A statement identifying by name the real party in interest is contained in the brief.

**(2) Related Appeals and Interferences**

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**(3) Status of Claims**

The statement of the status of claims contained in the brief is correct.

**(4) Status of Amendments After Final**

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

**(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is correct.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

**(7) Claims Appendix**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(8) Evidence Relied Upon**

6,850,252	HOFFBERG	2-2005
6,772,196	KIRSCH et al.	8-2004
5,195,135	PALMER	3-1993

Jelbert, et al. UK Patent Application GB 2 347 053 A, August 23, 2000.

**(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

1. Claims 1, 3, 5-6, 10-11, 16-17, 19, 21-22, 26-27, 32-33, 35, 37-38, 42-43 & 48 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,850,252 to **Hoffberg**, U.S. Patent 5,195,135 to **Palmer** and U.S. Patent 6,772,196 to Kirsch et al. (**Kirsch**).

Regarding claims 1, 17 & 33, Hoffberg discloses receiving requested content, retrieving a user profile for a requesting user, wherein the user profile includes parameters/factors for identifying objectionable content (col. 222, line 49 – col. 223, line 12), analyzing the requested content using the parameters/factors stored in the user profile of the requesting user (determining a correlation) to identify an amount/score of objectionable content based on the parameters for each of the plurality of categories/categorizations of objectionable content (col. 222, line 49 – col. 223, line 12) and determining a score/composite score for the requested content for each of the categories/categorizations of objectionable content based on the amount/weight and category/correlation factor categorization contained in the requested content (col. 222, line 49 – col. 223, line 12). Hoffberg lacks a plurality of thresholds including a threshold for each of a plurality of categories of objectionable content and lacks storing the requested content in an objectionable content data structure if a score for the requested content is above at least one threshold for at least one category of objectionable content. However, Palmer teaches that multivariate censorship (simultaneous censorship of several different subjects, with each subject censored to a different threshold) is useful because it takes into considerations varied tastes (for instance simultaneous censorship of nudity/sex to a level suitable to children and

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violence/mayhem to a level suitable for sophisticated adults) (col. 4, lines 25-32). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Hoffberg to take into consideration a plurality of thresholds for each of a plurality of categories of objectionable content. One of ordinary skill in the art would have been motivated to perform such a modification to take into considerations varied tastes, as taught by Palmer (col. 4, lines 25-32). Further, Kirsch teaches an email filtering system where a signature is generated for a message and compared to signature record sets retrieved from a client signature database, determining a score for each of the various subsets. If it is unwanted, it can be sent to a "suspected UEM" inbound email queue to allow the user to later review (col. 7, lines 40-43). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Hoffberg to store the requested content in an objectionable content data structure/"suspected UEM" queue if a score for the requested content is above at least one threshold for at least one category of objectionable content. One of ordinary skill in the art would have been motivated to perform such a modification to allow the user to later review the content, as taught by Kirsch (col. 7, lines 1-16 & 40-43).

Regarding claims 3, 6, 10-11, 16, 19, 22, 26-27, 32, 35, 38, 42-43 & 48, Hoffberg, as modified above, discloses providing at least one entry from the objectionable content data structure to a user (Kirsch, col. 7, lines 1-16), receiving input from the user categorizing the at least one entry as objectionable or non-objectionable (col. 223, lines 12-20) and adjusting at least one predetermined threshold within the plurality of thresholds if the input from the user categorizes the at least one entry as non-objectionable (col. 223, lines 12-20).

Regarding claims 5, 21 & 37, Hoffberg discloses the method performed on a client device/set top box (col. 219, lines 51-54).

2. Claims 4, 20 & 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Hoffberg, Palmer and Kirsch**, as applied to claim 1 above, in further view of UK Patent Application GB 2 347 053 A to **Jelbert**. Hoffberg lacks the method implemented in a proxy server. However, Jelbert teaches that if email filtering is implemented on a proxy server, little change needs to be made to the POP3 server and the client (p. 8, ¶2). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Hoffberg to implement the method in a proxy server. One of ordinary skill in the art would have been motivated to perform such a modification to avoid major changes to a client or server, as taught by Jelbert (p. 8, ¶2).

#### **(10) Response to Argument**

(following the section number in Appellant's brief)

**Appellant's brief (§A)** argues that Hoffberg, Palmer and Kirsch, alone or in combination, fail to teach or suggest storing the requested content in an objectionable content data structure if a score for the requested content is above at least one threshold for at least one category of objectionable content. Appellant argues that Kirsch describes filtering undesirable mail (UEM) either to a trash folder or other segregated email queue, but because Kirsch describes undesirable email as "spam" email or "spamming", which is typically unsolicited mass emailings to open or unsubscribed email addresses, Kirsch teaches storing unsolicited emails.

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Therefore, Appellant argues that Kirsch does not teach storing the requested content in an objectionable data structure. It is noted that Kirsch teaches “A **generally** undesired use of email, hereinafter referred to as the delivery of undesired email (UEM) and loosely referred to as “spam” email or “spamming,” is the **typically** unsolicited mass emailings to open or unsubscribed email addresses” (emphasis added). Therefore, undesired mail is not *limited* in Kirsch to unsolicited mail. This is only one possibility of why an email message might be undesirable to a user. More importantly however, is that Kirsch teaches an email program. In an email system, a user **requests content** (emails) whenever the user requests access to the email box, whether it be a request to a server to download the email to a local program such as Microsoft Outlook, a request to open a web-based email viewer, etc. A user requests retrieval of all the emails that have been sent to the user’s email address from wherever these emails are stored. The storage location (such as an email server) then sends **all messages** to the user. The messages represent the content requested by the user. The Kirsch references teaches that the user requests his/her email messages and based on the analysis, some part of the content (emails) can be filtered to a separate folder if that part of the content (email or emails) is considered objectionable based on some criteria. The motivation given by Kirsch is that “Any loss of non-UEM messages, however, is generally considered completely unacceptable by users” (Kirsch, col. 2, lines 46-47). Note that the user requests the content in Hoffberg and Palmer, and the system subjects the content to filtering, just as Kirsch does. Therefore, in Kirsch, upon a user requesting his/her content (emails from a server, for example), if a message is filtered as being objectionable based on it’s meeting certain criteria, the message is placed in an objectionable content data structure so that the user can be sure that the message is an undesired message

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(deserving of filtering) rather than a message the user deems desirable, but the filters deem undesirable. If the requested content is not filtered to a separate objectionable content data structure, such as a situation where the content is deleted when filtered, the requested content is lost forever. If the user actually desired that part of the content (particular email message(s)), there is no way to recover it. Therefore, by storing the filtered part of the requested content in an objectionable data structure, the user can later review the content so that non-UEM messages are not lost, as taught by Kirsch (col. 2, lines 46-47).

Appellant's brief (§A, p. 14) also argues that a requested email would not appear in the signature records of Kirsch. However, this is not used in the rejection, as described above.

Appellant's brief (§A, p. 15) argues that there is not motivation in the references for combining Kirsch with Hoffberg and Palmer. However, as described above and in the rejections, the motivation given by Kirsch is that "Any loss of non-UEM messages, however, is generally considered completely unacceptable by users" (Kirsch, col. 2, lines 46-47). Appellant argues that "Hoffberg appears to teach analyzing content based on a user's likes and dislikes and Palmer appears to teach automatically censoring audio-video programming ... Kirsch teaches storing unsolicited emails" and as such, the rejection does not hold. However, it is believed that one having ordinary skill in the art at the time the invention was made would have looked to any of the references as possible combinations based on their striking similarities, such as filtering content for a user. The above-mentioned "likes and dislikes", "censoring" and filtering "unsolicited emails" are all similar in that the user is requesting that content be filtered based on criteria (preferences).



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**Appellant's brief (§B)** argues that Jelbert does not cure the deficiencies of Hoffberg, Palmer and Kirsch. However, as described above, it is maintained that the combination of Hoffberg, Palmer and Kirsch meet the limitations of the claims rejected under those references. Therefore, because Jelbert is not relied upon for teaching the storage of requested content in an objectionable content data structure if a score for the requested content is above at least one threshold for at least one category of objectionable content, this argument is unpersuasive.

**(11) Related Proceeding(s) Appendix**

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

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For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Michael J. Simitoski



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